[JOINT COMMITTEE PRINT]

DESCRIPTION OF TAX BILLS
(H.R. 2163, S. 927, and S. 1183)

SCHEDULED FOR A HEARING

BEFORE THE

SUBCOMMITTEE ON TAXATION AND
DEBT MANAGEMENT

OF THE

COMMITTEE ON FINANCE

ON AUGUST 3, 1983

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INTRODUCTION

The Senate Finance Subcommittee on Taxation and Debt Management has scheduled a public hearing on August 3, 1983, on three bills: H.R. 2163, S. 927, and S. 1183.

H.R. 2163, as passed by the House of Representatives on July 12, 1983 (H. Rep. No. 98-133, Part 2), would expand the articles subject to the 10-percent excise tax on fishing equipment; impose the tax at a special 3-percent rate on electric outboard boat motors; modify the purposes for which the revenues from these taxes, the taxes on motorboat fuels, and the tariff revenues attributable to fishing tackles, yachts, and pleasure craft are expended; extend the payment date for the excise tax on sport fishing equipment; provide rules governing the tax treatment of a National Fish and Wildlife Foundation proposed to be established by H.R. 2809 (as passed by the House of Representatives on July 12, 1983); and expand the types of arrows subject to the excise tax on bows and arrows.

S. 927 (introduced by Senators Durenberger, Boren, and Percy) would extend the time for payment of the present excise tax on fishing equipment, with payment generally being required on a quarterly basis.

S. 1183 (introduced by Senators Matsunaga, Long, Bentsen, Durenberger, Grassley, and Moynihan) would exempt certain debt-financed income of educational organizations from the unrelated business income provisions generally applicable to tax-exempt organizations.

The first part of the pamphlet is a summary of the bills. This is followed by a more detailed description of the bills, including present law, issues, explanation of provisions, effective dates, and estimated revenue effects, except for S. 1183 for which a revenue estimate is not available at this time.

I. SUMMARY

1. H.R. 2163—As Passed by the House of Representatives

Expansion of Excise Tax on Fishing Equipment; Modification of Sport Fish Restoration and Federal Boating Safety Programs; and Other Matters

Sport fish restoration, Federal boat safety, and Land and Water Conservation Fund programs

Present law imposes a 10-percent excise tax on the sale of fishing rods, creels, reels, and certain other articles by the manufacturer, producer, or importer of the articles (Code sec. 4161(a)). Revenues equivalent to the tax are distributed to the States in partial reimbursement of the costs they incur in approved fish restoration and management projects (the Sport Fish Restoration Program).

Present law also imposes excise taxes on gasoline and special motor fuels used in motorboats (secs. 4041, 4081, and 9503).

For fiscal years 1983-1988, up to $45 million per year of revenues from these taxes are deposited in the National Recreational Boating Safety and Facilities Improvement Fund, with the balance, if any, being deposited in the Land and Water Conservation Fund. Part of the revenue from the Boating Safety Fund is used for marine conservation programs, and part is used for recreational boating programs.

The bill would expand the articles subject to the 10-percent excise tax on fishing equipment and impose the tax at a special 3-percent rate on electric outboard boat motors. The bill also would extend the time for payment of the expanded excise tax until March 31, June 30, and September 24 for calendar quarters ending on December 31, March 31, and June 30, respectively. Tax for the quarter ending September 30 would be payable on a date prescribed by Treasury Department regulations.

Finally, the bill would modify the financing sources for the three programs and the expenditure purposes for the sport fish restoration and Boating Safety Fund programs.

The excise tax expansion would be effective with respect to articles sold after December 31, 1983; the extension of the time for payment of excise tax would be effective on October 1, 1983; and the other amendments would be effective on October 1, 1983.

Tax treatment of proposed National Fish and Wildlife Foundation

A charitable organization is exempt from Federal income tax if it meets certain specific Internal Revenue Code requirements (Code sec. 501). With certain exceptions (e.g., churches), organizations are exempt only if the Internal Revenue Service makes a determination of exempt status following submission of an application on behalf of the organization (sec. 508). Contributions to the organiza-

tion for use in carrying out its exempt function generally are deductible by the donor for income, estate, and gift tax purposes (secs. 170, 2055, and 2522).

Organizations maintain their tax-exempt status and eligibility to receive tax-deductible gifts only as long as statutory criteria are satisfied. An organization otherwise exempt from tax is nevertheless taxable on its unrelated business income (secs. 511-514), and certain otherwise exempt organizations may incur liability for certain other special taxes if specified actions are taken or certain conditions exist.

H.R. 2809, as passed by the House of Representatives on July 12, 1983, would establish a new organization, the National Fish and Wildlife Foundation, to assist in carrying out the programs of the U.S. Fish and Wildlife Service. Under that bill, an amount not to exceed $1 million over a 10-year period, would be authorized to be made available from general revenues to the Foundation for administrative expenses and for a one-for-one matching program with private contributions for use in carrying out its exempt purpose.

H.R. 2809 has been referred to the Senate Committee on Environment and Public Works.

The bill would provide that the Foundation to be established by H.R 2809 (if enacted) would not be required to provide notice to the Internal Revenue Service that it is applying for recognition of its exempt status and that it is not a private foundation. The effect of this provision is that in order to be treated as a tax-exempt organization and as a public charity, the Foundation would be subject to the provisions of the Internal Revenue Code governing organizations exempt from tax under section 501(c)(3) and would maintain its exempt status so long as it satisfies the requirements for exemption under that section.

Expansion of excise tax on arrows

Under present law, an 11-percent manufacturers excise tax is imposed on the sale by a manufacturer or importer of any bow which has a draw weight of 10 pounds or more and of any arrow which measures 18 inches or more overall in length (sec. 4161(b)). Amounts equivalent to the revenues from this tax are appropriated to the Pittman-Robertson "fund" program for support of State wildlife programs.

The bill would expand the excise tax on arrows to include arrows less than 18 inches in overall length which are suitable for use with a taxable bow.

2. S. 927—Senators Durenberger, Boren, and Percy

Extension of Time for Payment of Excise Tax on Fishing Equipment

Present law imposes a 10-percent excise tax on the sale of fishing rods, creels, reels, and certain other articles by the manufacturer, producer, or importer thereof (sec. 4161(a)). This tax, like the other manufacturers excise taxes, generally is payable relatively soon after the fishing equipment is sold.

The bill would extend the time for payment of the excise tax on fishing equipment until March 31, June 30, and September 24 for calendar quarters ending on December 31, March 31, and June 30, respectively. Tax for the quarter ending September 30 would be payable on a date prescribed by Treasury Department regulations.

The provisions of the bill would apply to articles sold in the first quarter beginning after the date of enactment of the bill.

3. S. 1183—Senators Matsunaga, Long, Bentsen, Durenberger, Grassley, and Moynihan

Exception for Educational Organizations from Certain Unrelated Business Income Provisions

Under present law, any qualified pension trust or organization that is otherwise exempt from Federal income tax generally is taxed on income from trades or businesses that are unrelated to the organization's exempt purposes. Included in unrelated business income is an exempt organization's income from "debt-financed property" which is not used for its exempt function (Code sec. 514).

Debt-financed property is defined as any property which is held to produce income and with respect to which there is acquisition indebtedness at any time during the taxable year or during the 12 months prior to disposition if the property is disposed of during the taxable year. With certain exceptions, indebtedness incurred by a qualified trust as a result of the acquisition or improvement of real property is not considered acquisition indebtedness. Thus, income or gain received by a qualified trust from, or with respect to such, real property generally is not treated as income from debt-financed property.

The bill would expand the exception from the definition of acquisition indebtedness for qualified trusts to include educational organizations. Thus, income or gain received from, or with respect to, debt-financed real property owned by educational organizations would not be subject to tax as unrelated business income.

II. DESCRIPTION OF H.R. 2163—AS PASSED BY THE HOUSE OF REPRESENTATIVES

A. Expansion of Excise Tax on Fishing Equipment; Modification of Sport Fish Restoration and Federal Boating Safety Programs

1. Revenue Provisions

Present Law

Excise tax on fishing equipment

Present law imposes an excise tax equal to 10 percent of the price on the sale of fishing rods, creels, and reels, and on artificial lures, baits, and flies (including parts and accessories sold on or in connection with such articles) by a manufacturer, producer, or importer (Code sec. 4161(a)).

Revenues equivalent to the 10-percent tax on fishing equipment are distributed to the States in partial reimbursement of the costs they incur in approved fish restoration and management projects, discussed below under the explanation of the Sport Fish Restoration Program.

Time for payment of excise tax on fishing equipment

Treasury Department regulations require returns of manufacturers excise taxes, including the tax on the sale of fishing equipment, to be filed quarterly, unless more frequent filing by an individual taxpayer is required (Treas. Reg. sec. 48.6011(a)-1). Quarterly returns are due on the last day of the first month after the end of the quarter (Treas. Reg. sec. 48.6071(a)-1).

Although most Federal excise tax returns are filed on a quarterly basis, Treasury regulations generally require monthly, or semimonthly, payment of the tax (Treas. Reg. sec. 48.6302(c)-1). If a taxpayer is liable in any month for more than $100 of manufacturers excise tax and is not required to make semimonthly deposits, the taxpayer must deposit the amount on or before the last day of the next month at an authorized depository or at the Federal Reserve Bank serving the area in which the taxpayer is located.

If a taxpayer had more than $2,000 in manufacturers excise tax liability for any month of a preceding calendar quarter, such taxes must be deposited for the following quarter (regardless of amount) on a semimonthly basis. The taxes must be deposited by the ninth day following the last day of semimonthly payment period.

Table 1 shows the return requirements and payment requirements for selected Federal excise taxes.

Table 1—Schedule of Return Requirements and Payment Periods For Selected Federal Excise Taxes

Tax	Return period	Tax payment period	Float time (days) [1]
Manufacturers and retailers taxes			
Motor fuels, tires and tubes, gasoline, special fuels, sporting goods, diesel fuel, new trucks, and trailers.	Quarterly (last day of monthly after end of quarter).	At least $100 of total excise taxes—monthly on last day of succeeding month, last installment with return.	30
		More than $2,000 of total excise taxes in any month of preceding quarter—semimonthly.	92
Wagering.	Monthly (15 days after end of month).	With return.	15
Tobacco products.	Semimonthly (25 days after end of period).	At time of removal unless have deferral bond—then with return.	25
Distilled spirits.	Semimonthly (30 days after end of period).	At time of removal unless have deferral bond—then with return.	30
Beer and wine.	Semimonthly (15 days (or 3 days) after end of period).	At time of removal unless have deferral bond—then with return.	15

Facilities and services taxes			
Telephone, airlines.	Quarterly (last day of 2nd month following quarter).	At least $100 of total excise taxes—monthly on last day of succeeding month, last installment with return.	30
		More than $2,000 of total excise taxes in any month of preceding quarter—3 banking days after close of semimonthly period.	3

[1] Float time is the delay permitted between the end of a tax payment period and the date the tax must be paid.
[2] Certain gasoline manufacturers are permitted 14 days if payment is made by wire transfer.

Taxes on motorboat fuels

Taxes at a rate of 9 cents per gallon are imposed on gasoline and special motor fuels used in motorboats. For fiscal years 1983-1988, up to $45 million per year of the revenues from these taxes are transferred from the Highway Trust Fund into the National Recreational Boating Safety and Facilities Improvement Fund (the "Boating Safety Fund"), with the balance, if any, going to the Land and Water Conservation Fund.

Tariffs on imported fishing tackle and yachts and pleasure craft

Duties at varying rates are imposed on the importation of specified articles of fishing tackle (19 U.S.C. 1202). Duties are also imposed on the importation of certain yachts and pleasure craft (19 U.S.C. 1202). Revenues from these import duties are deposited in the general fund of the Treasury.

Issues

The revenue provisions of the bill raise several issues, including the following:

First, should the list of articles of fishing equipment subject to Federal excise tax be expanded?

Second, should the rate of tax for some articles be lower than the rate applicable to sport fishing equipment generally?

Third, should the time for payment of the excise tax on sport fishing equipment be extended, and if so, should the time permitted be greater than that allowed manufacturers of other articles subject to Federal excise taxes?

Fourth, should additional Federal taxes be imposed to fund State, as contrasted to Federal, programs?

Fifth, should revenues from duties on imported yachts and pleasure craft be used to support the Sport Fish Restoration Program when similar domestically manufactured articles are not subject to a tax for support of that program?

Sixth, should revenues from the excise taxes on motorboat fuels be diverted from the Land and Water Conservation Fund and used to support other programs?

Explanation of Revenue Provisions

Excise taxes on sport fishing equipment

The bill would expand the articles subject to the 10-percent manufacturers excise tax on sport fishing equipment to include articles not presently subject to tax. The additional articles of sport fishing equipment that would be subject to the 10-percent excise tax would include, for example, fishing rods and poles (and component parts of such rods and poles) fishing lines; underwater spear guns and fishing spears; bags and baskets designed to hold fish; portable bait containers; landing nets; gaff hooks; rodholders; and other items designed for use in recreational fishing.[1] In addition, the bill would

[1] A more detailed description of the specific items subject to the expanded tax on sport fishing equipment is contained in the report of the House Committee on Ways and Means on H.R. 2163 (H. Rep. No. 98-133, Part 2, July 1, 1983).

impose the tax at a special 3-percent rate on the sale of electric outboard boat motors.

Time for payment of excise tax on fishing equipment [2]

The bill would extend the time for paying the excise tax on sport fishing equipment. Under the bill, payment of the excise tax would be required on a quarterly basis as follows:

a. March 31, in the case of articles sold during the quarter ending the previous December 31;

b. June 30, in the case of articles sold during the quarter ending the previous March 31;

c. September 24, in the case of articles sold during the quarter ending the previous June 30; and

d. On a date prescribed in Treasury regulations in the case of articles sold during the quarter ending September 30.

The bill would not amend the time prescribed under present law for filing returns of manufacturers excise taxes or the time for payment of such taxes on articles other than fishing equipment.

Reallocation of motorboat fuels tax receipts

Revenues other than $1 million from the excise taxes on gasoline and special motor fuels used in motorboats would be reallocated between the Sport Fish Restoration Program and the Boating Safety Program. This reallocation is explained more fully in the description of the bill's fund expenditure provisions, following.

Transfer of tariff revenues on fishing tackle and yachts and pleasure craft

Under the bill, revenues from the import duties on fishing tackle and on yachts and pleasure craft would be dedicated to the Sport Fish Restoration Program, rather than being deposited in the general fund of the Treasury.

Effective Dates

The amendments expanding the articles subject to the excise tax on sport fishing equipment would be effective with respect to sales after December 31, 1983. The other revenue provisions would be effective on October 1, 1983.

Revenue Effect

It is estimated that the expansion of the excise tax on sport fishing equipment would increase gross tax receipts (available for the Sport Fish Restoration Program) by $8 million in fiscal year 1984, $12 million in fiscal years 1985 and 1986, and $13 million in fiscal years 1987 and 1988. Net fiscal year budget receipts (after income tax offsets) are estimated to be $6 million in 1984, $9 million in 1985 and 1986, and $10 million in 1987 and 1988. (See, Table 4, following, for budget effects of other revenue transfer provisions.)

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[2] S. 927, described in Part III, contains a provision identical to that of H.R. 2163 regarding the time of payment of the excise tax on fishing equipment.

2. Fund Expenditure Provisions

Present Law and Background

Sport Fish Restoration Program

Overview

The Act of August 9, 1950 (commonly referred to as the Dingell-Johnson Act) provided for cooperation between the Federal Government and State fish and game departments. Although the Act did not establish a true trust fund, appropriations are linked to specific tax revenues. Limits are placed on State expenditures of Federally appropriated funds until the State has passed laws governing the conservation of fish and the State meets other requirements.

Financing source and expenditure purposes

To carry out fish restoration and management projects, there is authorized to be appropriated (under 16 U.S.C. sec. 777b) an amount equal to the revenue accruing from the 10-percent excise tax on certain fishing equipment (described above in Part II.A.1). The appropriation for any fiscal year continues to be available for the succeeding fiscal year. If the amount apportioned to any State is unexpended or unobligated at the end of the period for which it is available, this amount is then authorized to be made available for expenditure by the Secretary of the Interior on the research program of the U.S. Fish and Wildlife Service.[3]

Any State that wishes to receive any of these appropriations must submit to the Secretary of the Interior a program or project for fish restoration. Amounts are appropriated to reimburse States for up to 75 percent of the cost of approved projects. Approved projects include research into problems of fish management and culture, surveys and inventories of fish populations, restocking waters with food and game fishes according to natural areas, and acquisition and improvement of fish habitat that provide access for public use. The amount of assistance for these programs is determined by statutory formula.

The State allocations are apportioned as follows:

a. 40 percent in the ratio which the area of each State, including coastal and Great Lakes waters, bears to the total area of all the States; and

b. 60 percent in the ratio which the number of persons holding licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which the ap-

[3] Up to eight percent of each annual appropriation is available to the Secretary of the Interior to defray expenses of administering the program and of aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or fresh waters.

portionment is made bears to the number of such persons in all the States.

No State is permitted to receive less than one percent or more than five percent of the total amount apportioned. Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands can also be appropriated limited amounts of these revenues.

National Recreational Boating Safety and Facilities Improvement Fund

Overview

The National Recreational Boating Safety and Facilities Improvement Fund ("Boating Safety Fund") was enacted on October 14, 1980 (P.L. 96-451) to provide a source of funding for Federal recreational boat safety and facilities improvement projects. Previously, all funds attributable to the excise taxes on gasoline and special motor fuels used in motorboats were transferred periodically into the Land and Water Conservation Fund.

The 1980 Act provided financing for the Boating Safety Fund for fiscal years 1981 through 1983. The Highway Revenue Act of 1982 (Title V of the Surface Transportation Assistance Act of 1982, P.L. 97-424) extended the Boating Safety Fund through fiscal year 1988, and increased the amounts to be transferred into the Fund (as indicated below).

Financing source and expenditure purposes

The Secretary of the Treasury is authorized to pay into the Boating Safety Fund certain amounts equivalent to the motorboat fuels taxes received on or after October 1, 1980, and before October 1, 1988. The aggregate amount transferred during each fiscal year cannot exceed $45 million for fiscal years 1983 through 1988. Additionally, the maximum amount permitted to be held by the Fund at any time cannot exceed $45 million. Any excess motorboat fuels tax receipts are transferred into the Land and Water Conservation Fund, discussed below.

Amounts in the Boating Safety Fund are available, as provided in appropriation acts, for carrying out the purposes of the Federal Boat Safety Act of 1971 (46 U.S.C. 1476). Under that Act, as amended in 1982 by the Surface Transportation Assistance Act, the Secretary of Transportation is provided with authority to contract with the States to implement and administer boating safety programs. Approval of specific elements of a State program by the Transportation Secretary is deemed to be a contractual obligation of the United States.

Under section 26 of the Federal Boat Safety Act, the Secretary of Transportation may allocate and distribute amounts from the Fund to any State that has a State recreational boating safety and facilities improvement program if that program meets certain standards and the State provides matching funds. Currently, one-third of the revenue available for allocation and distribution is to be allocated for recreational boating safety programs and two-thirds is to be allocated for recreational boating facilities improvement programs.

Available Boating Safety Fund amounts are allocated and distributed to the States for recreational boating safety programs and

facilities improvement programs as follows: one-third allocated equally among eligible States; one-third allocated among eligible States who maintain an approved State vessel numbering system according to number of vessels; and one-third allocated to eligible States according to the amount of State funds expended or obligated for State boating safety programs or boating facility improvement programs.

Financial status of the Fund

Table 2 contains data on the Boating Safety Fund's actual receipts for fiscal year 1982 and as projected for fiscal years 1983 and 1984, as well as the Fund's balance at the end of each fiscal year.

Table 2.—Amounts Available for Appropriation in the National Recreational Boating Safety and Facilities Improvement Fund

[In millions of dollars]

	Fiscal Years		
	1982 actual	1983 estimate	1984 estimate
Unappropriated balance, start of year	20	20	45
Collections (offsetting receipts): Recreational Boating Safety and Facilities Act of 1980, as amended: Motorboat fuels taxes		30	15
Total available for appropriation	20	50	60
Appropriation			−15
Appropriation (proposed supplemental)		−5	
Unappropriated balance, end of year	20	45	45
Status of unfunded contract authority:			
Unfunded balance, start of year			40
Contract authority		45	45
Appropriation to liquidate contract authority		−5	−15
Unfunded balance, end of year		40	70

Source: U.S. Budget Appendix, Fiscal Year 1984.

Land and Water Conservation Fund

Overview

On September 3, 1964, Congress enacted Public Law 88-578, which established the Land and Water Conservation Fund as a separate account in the Treasury, effective January 1, 1965. Present law (16 U.S.C. 460*l-5*) provides for deposit of the following amounts in the Fund:

a. All proceeds (except those committed under other statutes), received from any disposal of surplus property and related personal property under the Federal Property and Administrative Services Act of 1949, as amended;

b. Amounts equivalent to the 9-cents-per-gallon taxes on gasoline and special motor fuels used in motorboats (to the extent these revenues exceed the amount transferred to the Boating Safety Fund);

c. Revenues from Federal recreational fee collections (since January 1, 1981);

d. Amounts necessary to make the income of the Fund not less than $900 million for fiscal year 1978 and for each fiscal year thereafter through September 30, 1989 (if appropriated); and

e. To the extent that the appropriated sums are insufficient to make the total annual income of the Fund equivalent to the amounts stated above, the amount required to cover the remainder, from miscellaneous receipts under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

The general purposes of the Land and Water Conservation Fund are (1) to provide funds for and authorize Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities, and (2) to provide funds for the Federal acquisition and development of certain lands and other areas. Monies in the Fund are available for expenditure as provided in appropriation acts. Not less than 40 percent of annual appropriations are to be used for Federal purposes; these include activities and programs of the Bureau of Land Management, the Forest Service, the Fish and Wildlife Service, and the National Park Service. The remainder of funds appropriated are apportioned among the States on the basis of statutory formula and criteria.

Financial status of the Fund

Table 3 contains data on the Land and Water Conservation Fund's actual receipts for fiscal year 1982 and estimated receipts for fiscal years 1983 and 1984, as well as the Fund's balance at the end of the fiscal years.

Table 3.—Amounts Available for Appropriation in the Land and Water Conservation Fund

[In millions of dollars]

	Fiscal years		
	1982 actual	1983 estimate	1984 estimate
Unappropriated balance, start of year	1,117.6	1,837.6	2,510.7
Collections (offsetting receipts):			
Land and Water Conservation Fund Act:			
Recreation fees	23.6	26.5	26.5
Administration's proposed legislation			−26.5
Surplus property sales	26.2	401.0	578.0
Administration's proposed legislation		−401.0	−578.0
Motorboat fuels taxes	30.3	9.0	49.0
Outer Continental Shelf Lands Act	819.9	463.5	246.5
Administration's proposed legislation		401.0	604.5
Total available for appropriation	2,017.6	2,737.6	3,410.7
Appropriation	−179.9	−226.9	−128.9
Unappropriated balance, end of year	1,837.6	2,510.7	3,281.9
Special account (Public Law 95-42, sec. 1):			
Unappropriated balance, start of year	142.6	142.6	142.6
Total available for appropriation	142.6	142.6	142.6
Appropriation			
Unappropriated balance end of year	142.6	142.6	142.6

Source: U.S. Budget Appendix, Fiscal year 1984.

Issues

The principal issues presented by the fund expenditure provisions of the bill are as follows:

First, should the allocation of revenues among the Sport Fish Restoration Program, the Boating Safety Fund, and the Land and Water Conservation Fund be modified?

Second, should these funds be established as true trust funds in the Treasury, and if so, should the operative provisions of the funds be transferred to the Trust Fund Code of the Internal Revenue Code for efficiency of administration and oversight?

Explanation of Trust Fund Provisions

Aquatic Resources Trust Fund

In general

The bill would establish a new trust fund, the Aquatic Resources Trust Fund (the "Trust Fund"), in the Internal Revenue Code, to be administered by the Secretary of the Treasury. The new Trust Fund would expand and combine funding for the present sport fish restoration and boating safety programs into a single trust fund. The Trust Fund would consist of two accounts, the Sport Fish Restoration Account and the Boating Safety Account, described below.

Amounts equivalent to the following revenues would be appropriated to finance the purposes of the new Trust Fund:

a. Revenues from the expanded excise tax on sport fishing equipment;

b. Revenues from the 9-cents-per-gallon excise taxes on gasoline and special fuels used in motorboats (other than $1 million of those revenues, which would continue to be transferred to the Land and Water Conservation Fund); and

c. Import duties on fishing equipment and on yachts and pleasure craft.

Sport Fish Restoration Account

The present Sport Fish Restoration Program would be replaced by an expanded program financed by the new Sport Fish Restoration Account. This expanded program would be financed by trust fund revenues attributable to (1) the expanded excise tax on sport fishing equipment, (2) the motorboat fuels taxes (to the extent these revenues exceed the amount transferred to the Boating Safety Account and the Land and Water Conservation Fund), and (3) import duties on fishing equipment and on yachts and pleasure craft.

The expenditure purposes established for the Sport Fish Restoration Account would be those purposes established for the present Sport Fish Restoration Program (16 U.S.C. 777a, as amended), as

expanded by Title II of the bill (relating to expenditure authorizations). Expenditure purposes would be limited to those provided by law as of October 1, 1983 (i.e., the purposes provided as of the day after the date of the bill's enactment, including amendments to the program made by the bill, but not immediately effective).

Monies in the account would be available for expenditure by the Secretary of the Interior as provided in the Act of August 9, 1950, and would remain available until spent.

Boating Safety Account

The National Recreational Boating Safety and Facilities Improvement Fund would be repealed and a new, permanent, Boating Safety Account established in the Aquatic Resources Trust Fund to carry out its purposes, as amended by the bill. The Boating Safety Account would be financed by an amount equivalent to a portion of the revenues from the excise taxes on motorboat fuels. As under the present Boating Safety Fund, amounts allocated to the Account could not exceed $45 million in any fiscal year, and the uncommitted balance of the Account could not exceed $45 million at any time.

The expenditure purposes established for the Boating Safety Account would be the same as those established for the present Boating Safety Fund, as amended by Title I of the bill (relating to expenditure authorizations). Expenditure purposes would be limited to those provided by section 30 of the Federal Boat Safety Act of 1971, as of October 1, 1983 (i.e., the purposes provided as of the day after the date of enactment of the bill, including amendments to that Act made by the bill, but not immediately effective).

Specifically, monies in the Account could be expended, subject to appropriation acts, as follows:

a. Two-thirds of the amount allocated to the Account in any fiscal year (i.e., up to $30 million) for State boating safety programs; and

b. One-third of the amount allocated to the Account (i.e., up to $15 million) to the operating expenses account of the Coast Guard (including the Coast Guard Auxiliary) to defray the cost of services provided by it for recreational boating safety.

Monies in the Account would be available, subject to appropriations acts, for expenditure by the Secretary of Transportation pursuant to that Secretary's contract authority, and would remain available until spent.

Land and Water Conservation Fund

An amount not exceeding $1 million per fiscal year of the revenues attributable to the excise taxes on gasoline and special motor fuels used in motorboats would be transferred to the Land and Water Conservation Fund.[4] No other amendments would be made by the bill to that Fund.

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[4] Thus, under the bill, amounts equivalent to the revenues derived from the excise taxes on motorboat fuels would be allocated first to the Land and Water Conservation Fund (in an amount not exceeding $1 million), and second, to the Boating Safety Account (in an amount not exceeding $45 million), with the excess being allocated first to the Sport Fish Restoration Account. By contrast, under present law, these amounts are allocated first to the Boating Safety Fund (in an amount not exceeding $45 million), with the entire excess being allocated to the Land and Water Conservation Fund.

Effective Date

The trust fund provisions of the bill would be effective on October 1, 1983.

Revenue Effect

The estimated revenues available for the Sport Fish Restoration Program under present law and under H.R. 2163 for fiscal years 1984-1988 are shown in Table 4 (below).

The Boating Safety Account would receive up to $45 million per year (through fiscal year 1988) from the taxes on motorboat fuels, and the Land and Water Conservation Fund would receive up to $1 million per year (fiscal years 1984-1988) from these taxes.

Table 4.—Estimated Revenues Available for Sport Fish Restoration Program Under Present Law and Under H.R. 2163 (as Passed by the House of Representatives), Fiscal Years 1984–88

[In millions of dollars]

Revenue source	Fiscal years—				
	1984	1985	1986	1987	1988
Present law revenue (existing 10-percent excise tax on fishing equipment)	38	41	44	49	53
Additional revenues:					
Expanded tax on sport fishing equipment	[1] 87	12	12	13	13
Transfer of import duties on fishing equipment and certain boats [2]	20	20	20	20	20
Excess motorboat fuels taxes (over that estimated going to the Boating Safety Account) [3]	[4] 21	[4] 21	[4] 21	[4] 21	[4] 23
Total available [5]	87	93	96	102	107

[1] Partial year; January 1, 1984, effective date.

[2] Amounts now go into the general revenues.

[3] Excess over the $45 million limit going to the Boating Safety Account and the $1 million to the Land and Water Conservation Fund. Such excess amounts now go into the Land and Water Conservation Fund.

[4] This assumes that the full $45 million per year would be transferred to the Boating Safety Account. However, if, as the Treasury Department assumes, there is only $15 million appropriated and transferred each year, then there would be an additional $30 million per year available for the Sport Fish Restoration Program.

[5] Amounts are available for appropriation for the Sport Fish Restoration Program in the year following receipt.

B. Tax Treatment of Proposed National Fish and Wildlife Foundation

1. Establishment of National Fish and Wildlife Foundation

H.R. 2809, as passed by the House of Representatives on July 12, 1983, would establish a National Fish and Wildlife Foundation ("Foundation") as a charitable, not-for-profit organization.[5] The Foundation would not be considered an agency or establishment of the United States Government.

The general purposes of the Foundation would be to encourage, accept, and manage private donations (including gifts of property) for the benefit of, or in connection with, the activities and services of the U.S. Fish and Wildlife Service, and to conduct such other activities as further the conservation and management of fish and wildlife resources of the United States, and its territories and possessions.

Under that bill, an amount not to exceed $1 million over a 10-year period, would be authorized to be made available from general revenues to the Foundation for administrative expenses and for a one-for-one matching program with private contributions for use in carrying out its exempt purpose.

H.R. 2809 has been referred to the Senate Committee on Environment and Public Works.

2. Tax Treatment of the Foundation

Present Law

Tax treatment of charitable organizations

Under present law, certain charitable, religious, and educational organizations generally are not subject to Federal income tax (sec. 501). Generally, these organizations are not enumerated individually in the statute. Rather, an organization generally must apply to the Internal Revenue Service for a determination of exempt status (sec. 508).

Organizations otherwise exempt from tax are nonetheless subject to tax on their unrelated business income (secs. 511-514). The tax on unrelated business income generally is determined as if the organization were a taxable corporation. In general, the term unrelated business income is defined as income from a trade or business which is regularly carried on by the organization and is not substantially related to the exempt purpose of the organization.

Exempt charitable organizations are of two broad types, public charities and private foundations. Private foundations are subject to special rules governing their operation and investments. For example, in the case of a private foundation, excise taxes are imposed

[5] See H. Rep. No. 98-134, Part 2 (July 1, 1983).

on acts of self-dealing (sec. 4941), on failure to distribute specified minimum amounts, (sec. 4942), on excess business holdings (sec. 4943), for making investments that jeopardize the organization's charitable purpose (sec. 4944), and on certain prohibited expenditures (sec. 4945). Also, private foundations are subject to a 2-percent excise tax on net investment income.

Tax treatment of donations to exempt organizations

Valuation rules and types of eligible property interests

In general, donors of property are entitled to claim a deduction for the fair market value of property donated to charitable organizations, the United States, or a State or local government. The deduction is available in determining income, estate, and gift taxes (secs. 170, 2055, and 2522).

Certain types of gifts are subject to special restrictions, either as to the amount deductible or as to the types of property interests for which a deduction is permitted. For example, one of these restrictions provides that the amount of gain that would be taxed as ordinary income if the donated property were sold cannot be deducted (sec. 170(e)(1)). Additionally, a contribution of less than the donor's entire interest in the property generally does not give rise to a deduction (income, estate, or gift tax) unless the gift takes the form of an interest in a unitrust, annuity trust, or a pooled income fund (sec. 170(f)(3)). Exceptions to this partial interest rule are provided for remainder interests in farms or personal residences, gifts of undivided portions of the donor's entire interest in the property, and gifts of qualified conservation easements.

Qualified conservation easements are real property interests donated in perpetuity for—

a. The preservation of land areas for outdoor recreation by, or for the education of, the general public;

b. The protection of a natural habitat of fish, wildlife, plants, or a similar ecosystem;

c. The preservation of open space (including farmland and forest land) where such preservation is—

(1) For the scenic enjoyment of the general public, or

(2) Pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit; or

d. The preservation of an historically important land area or a certified historic structure (sec. 170(h)).

Percentage limitations on aggregate gifts

Present law also imposes percentage limitations on the income tax deduction allowable to an individual in any year for charitable contributions.

In the case of gifts to private foundations, the maximum annual deduction generally is 20 percent of the individual's adjusted gross income; in the case of gifts to other qualified charitable organizations the limitations generally are 50 percent (cash gifts) and 30 percent (capital-gain property). Corporations may deduct contributions up to 10 percent of taxable income (determined with certain modifications) in the year (sec. 170(b)(2)).

There are no percentage limitations on the amount that may be claimed as a charitable deduction in determining estate and gift tax.

Issues

The principal issue is whether a Federally chartered, tax-exempt foundation should be established for the benefit of the U.S. Fish and Wildlife Service to carry out activities similar to those activities performed by that Service which currently are financed entirely through appropriations.

If Congress should establish a National Fish and Wildlife Foundation, a second issue is whether the regular Federal tax rules governing exempt organizations should apply to that Foundation.

Explanation of Provision

The bill would provide that the Foundation to be established by H.R. 2809 (if enacted) would not be required to provide notice to the Internal Revenue Service that it is not a private foundation. The effect of this provision is that, in order to be treated as a tax-exempt organization and as a public charity, the Foundation would be subject to the provisions of the Internal Revenue Code govering organizations exempt from tax under section 501(c)(3) and would maintain its exempt status so long as it satisfies the requirements for exemption under that section.

Effective Date

The provision of the bill affecting the tax treatment of the National Fish and Wildlife Foundation would be effective on the day after the date of enactment of H.R. 2809.

Revenue Effect

It is estimated that this provision would have a negligible revenue effect.

C. Expansion of Excise Tax on Certain Arrows

Present Law

Present law imposes an 11-percent manufacturers excise tax on the sale by a manufacturer or importer of any bow which has a draw weight of 10 pounds or more and of any arrow which measures 18 inches overall or more in length (sec. 4161(b)). Revenues from this tax are appropriated to the Pittman-Robertson "fund" program for support of State wildlife programs.

Issue

The issue is whether all arrows suitable for use with taxable bows should be subject to the manufacturers excise tax on bows and arrows.

Explanation of Provision

Under the bill, the excise tax on arrows would be expanded to include arrows less than 18 inches in overall length which are suitable for use with a taxable bow.

Effective Date

This provision of the bill would be effective with respect to arrows sold after December 31, 1983.

Revenue Effect

It is estimated that this provision would increase tax revenues by a negligible amount in each year.

III. DESCRIPTION OF S. 927—SENATORS DURENBERGER, BOREN, AND PERCY

Extension of Time for Payment of Excise Tax on Fishing Equipment [1]

Present Law

Present law imposes a 10-percent excise tax on the sale of fishing rods, creels, reels, and artificial lures, baits, and flies (including parts or accessories of esuch articles sold on or in connection therewith, or with the sale thereof) by the manufacturer, producer, or importer (sec. 4161(a)).

Treasury Department regulations require returns of manufacturers excise taxes, including the tax on the sale of fishing equipment, to be filed quarterly, unless the Internal Revenue Service requires more frequent filing by an individual taxpayer (Treas. Reg. sec. 48.6011(a)–1). Quarterly returns are due on the last day of the first month after the quarter ends (Treas. Reg. sec. 48.6071(a)–1).

Although excise tax returns generally are filed on a quarterly basis, the regulations require monthly, or semimonthly, payment of the tax in certain cases (Treas. Reg. sec. 48.6302(c)–1). If an individual is liable in any month (other than the last month of a calendar quarter) for more than $100 of manufacturers excise tax and is not required to make semimonthly deposits, the individual must deposit the amount on or before the last day of the next month at an authorized depository or at the Federal Reserve Bank serving the area in which the individual is located.

If an individual had more than $2,000 in manufacturers excise tax liability for any month of a preceding calendar quarter, such taxes must be deposited for the following quarter (regardless of amount) on a semimonthly basis. The taxes must be deposited by the ninth day following the semimonthly period for which they are deposited.

Issue

The issue is whether the time for payment of excise taxes imposed on the sale of fishing equipment should be extended beyond the time generally permitted for manufacturers excise taxes.

Explanation of Provision

The bill would amend present law to require payment of the excise tax on fishing equipment on a quarterly basis, as follows:

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[1] H.R. 2163, described in Part II, contains a provision identical to that of S. 927 regarding the time of payment of the excise tax on fishing equipment.

a. March 31, in the case of articles sold during the quarter ending the previous December 31;

b. June 30, in the case of articles sold during the quarter ending the previous March 31;

c. September 24, in the case of articles sold during the quarter ending the previous June 30; and

d. On a date prescribed in Treasury Department regulations, in the case of articles sold during the quarter ending September 30.

The bill would not change the present time for filing returns of manufacturers excise taxes or the time for payment of excise taxes on articles other than fishing equipment.

Effective Date

The provisions of the bill would apply to fishing equipment sold on or after the first day of the first calendar quarter beginning after the date of enactment of the bill.

Revenue Effect

It is estimated that the provisions of the bill would reduce overall budget receipts by a negligible amount.

IV. DESCRIPTION OF S. 1183—SENATORS MATSUNAGA, LONG, BENTSEN, DURENBERGER, GRASSLEY, AND MOYNIHAN

Exception for Educational Organizations From Certain Unrelated Business Income Provisions

Present Law

Under present law (Code sec. 511) any qualified pension trust or organization that is otherwise exempt from Federal income tax generally is taxed on income from trades or businesses that are unrelated to the organization's exempt purposes. Specific exclusions are provided for certain types of income, including rents, royalties, dividends, and interest.

Present law (sec. 514(a)) provides that an exempt organization's income from "debt-financed property" generally is subject to tax as unrelated business income in the proportion in which the property is financed by debt. Debt-financed property is defined as any property held to produce income with respect to which there is acquisition indebtedness at any time during the taxable year, or during the 12 months prior to disposition if the property is disposed of during the taxable year (sec. 514(b)). A debt constitutes acquisition indebtedness if the debt was incurred in acquiring or improving the property, or if the debt would not have been incurred but for the acquisition or improvement of the property (sec. 514(c)).

With certain exceptions, indebtedness incurred by a qualified trust as a result of the acquisition or improvement of real property is not considered "acquisition indebtedness" (sec. 514(c)(9)). Thus, income or gain received from or with respect to such debt-financed real property is not treated as income from debt-financed property. In five types of situations, the exception to the general definition of acquisition indebtedness would not apply: (1) if the acquisition price is not a fixed amount determined as of the date of acquisition; (2) if the amount of the indebtedness, or the amount payable thereon, or the time for making any payments, is dependent (in whole or in part) on the future revenues derived from the property; (3) if the property is leased by the trust to the seller or a person related to the seller; (4) if the property is acquired by a qualified trust from a person related to the plan under which the trust is formed or if such property is leased to such a related person; and (5) if the seller, a person related to the seller, or a person related to the plan provides nonrecourse financing for the transaction, and the debt is subordinate to any other indebtedness on the property or the debt bears a less than arm's-length interest rate.

Issue

The issue is whether the exception for qualified trusts from the definition of acquisition indebtedness should be expanded to include educational organizations.

Explanation of the Bill

The bill would expand the qualified trust exception from the general definition of acquisition indebtedness to include educational organizations. Thus, income or gain received from, or with respect to, debt-financed real property owned by educational organizations would not be treated as debt-financed property.

Effective Date

The provisions of the bill would be effective for taxable years beginning after December 31, 1983.

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